

STATE OF MARYLAND

**MARYLAND DEPARTMENT OF THE ENVIRONMENT**

**Shari T. Wilson, Secretary**

**BILL NO:** HOUSE BILL 176

**COMMITTEE:** Environmental Matters

**POSITION:** Support with Amendments

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**TITLE:** Bay Restoration Act of 2009

**BILL ANALYSIS:**

This Bill will prohibit a person from installing an on site sewage disposal system in Maryland unless that system utilizes the best available technology for nitrogen removal. MDE would be required to use the Bay Restoration fund (BRF) to assist homeowners with these costs consistent with current law for the BRF. Any person found in violation of this requirement is subject to a fine not exceeding \$1,000.

**POSITION AND RATIONALE:** Support with amendments

The Chesapeake Bay Program estimates that approximately 7 % percent of the nitrogen load to the Chesapeake Bay from Maryland comes from onsite sewage disposal systems (septic) systems. In the effort to accelerate Bay restoration, reducing the nitrogen load from septic systems is critical. Maryland's Chesapeake Bay Tributary Strategy Implementation Plan would require nutrient removal technology to be in place for all existing, new and replacement systems in order for Maryland to meet its nutrient reduction goals for the Bay.

In 2008, approximately 1500 new and 1500 replacement septic systems were installed in Maryland. The new systems result in a nitrogen loading increase of 18,000 pounds per year. The nutrient removal requirement in this Bill would reduce that load by 50%. Including replacement systems under the bill would fully offset the load from the new systems.

Through moneys provided by the BRF, MDE administers a grant program that can pay the homeowner's cost of upgrading an onsite sewage disposal system with best available technology (BAT) to remove nitrogen. Revenue in the BRF for this purpose results from the \$30 annual fee levied by Counties on septic system owners. The revenue from this fund is sufficient to upgrade approximately 600 systems per year based on current costs. This legislation would require that all 3,000 new and replacement systems to be constructed with BAT. There are not sufficient funds available in the BRF to sustain financing of these upgrades.

The BRF requires that priority be given to failing systems located in the Critical Area. In 2008 there were approximately 370 new and replacement systems constructed in the Critical Area.

BY: The Maryland Department of the Environment

AMENDMENTS TO HOUSE BILL 176  
(First Reading File Bill)

AMENDMENT NO. 1

Due to limitations of BRF funding, the Department should be authorized, not required to pay for upgrades.

Page 1, lines 3 through 8 should be changed to read:

FOR the purpose of prohibiting the installation of an on-site sewage disposal system unless the system utilizes nitrogen removal technology; ~~requiring~~ AUTHORIZING the Department of the Environment to assist homeowners in paying for certain costs; establishing a certain penalty for a certain violation; defining certain terms; AUTHORIZING THE DEPARTMENT TO DEVELOP REGULATIONS TO IMPLEMENT THIS SECTION and generally relating to on-site sewage disposal systems with nitrogen removal technology.

Page 2, lines 7 through 11 should be changed to read:

**(C) IN ACCORDANCE WITH § 9-1605.2(H) OF THIS TITLE, THE DEPARTMENT IS AUTHORIZED, BASED ON THE AVAILABILTY OF FUNDS, TOSHALL ASSIST HOMEOWNERS IN PAYING THE COST DIFFERENCE BETWEEN A CONVENTIONAL ON-SITE SEWAGE DISPOSAL SYSTEM AND A SYSTEM THAT UTILIZES NITROGEN REMOVAL TECHNOLOGY WITH MONEY FROM THE BAY RESTORATION FUND.**

AMENDMENT NO. 2

Expand requirement for BAT to repairs and replacement systems to offset the nitrogen load from new systems.

Page 2, lines 4 through 6 should be changed to read:

**(B) A PERSON MAY NOT INSTALL, OR HAVE INSTALLED ON PROPERTY THEY OWN, AN A NEW, REPAIR OR REPLACEMENT ON-SITE SEWAGE DISPOSAL SYSTEM IN THE STATE UNLESS THE ON-SITE SEWAGE DISPOSAL SYSTEM UTILIZES NITROGEN REMOVAL TECHNOLOGY.**

AMENDMENT NO. 3

Ensure penalty requirements are limited to \$1000 but are consistent with other water pollution penalty requirements.

Page 2, lines 12 through 13 should be changed to read:

**(D) A PERSON WHO VIOLATES SUBSECTION (B) OF THIS SECTION IS SUBJECT TO CIVIL AND ADMINISTRATIVE PENALTIES UNDER THE PROVISIONS OF §§ 9-334 THROUGH 9-342 OF**

**THIS TITLE, EXCEPT THAT PENALTIES SHALL NOT EXCEED \$1000 PER DAY. EACH DAY A VIOLATION CONTINUES IS A SEPARATE VIOLATION UNDER THIS SECTION. GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING \$1,000.**

**AMENDMENT NO. 4**

Authorize the Department to adopt regulations to ensure the systems are properly maintained.

Page 2, after line 14 the following wording should be added:

**(E) THE DEPARTMENT SHALL ADOPT REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SECTION THAT INCLUDE PROVISIONS TO ENSURE APPROPRIATE MANAGEMENT MEASURES ARE IN PLACE FOR THE OPERATION AND MAINTENANCE OF NITROGEN REMOVAL TECHNOLOGIES**

**FOR MORE INFORMATION,**  
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